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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Christen Beckner,

10 Plaintiff,

11 v.

12 Arizona Department of Corrections
13 Rehabilitation and Reentry, et al.,

14 Defendants.

No. CV-22-00430-TUC-JCH (P)

ORDER

15 On September 19, 2022, Plaintiff Christen Beckner, who is confined in the Arizona
16 State Prison Complex-Douglas, filed a pro se civil rights Complaint under 42 U.S.C.
17 § 1983. Doc. 1. On November 28, 2022, the Court granted Plaintiff leave to file a first
18 amended complaint within 30 days of its Order. Doc. 10. In the same Order, the Court
19 granted Plaintiff's Application to Proceed in Forma Pauperis. *Id.* The Court provided
20 Plaintiff with a form for filing an amended complaint. *Id.* at 6–15. The Court warned
21 Plaintiff that his action could be dismissed without further notice if he failed to timely
22 comply with every provision of the Order. *Id.* at 4. The Court ordered the Clerk of the
23 Court to enter a judgment of dismissal without prejudice if Plaintiff failed to file an
24 amended complaint within 30 days. *Id.* at 5. Fifty-one days later, on January 18, 2023,
25 Plaintiff filed a first amended complaint. Doc. 12. On January 26, 2023, the Clerk of the
26 Court dismissed Plaintiff's action without prejudice for failure to comply with the Court's
27 November 28 Order. Doc. 13.

28 On March 6, 2023, Plaintiff filed a Motion for Reconsideration. Doc. 14. The Court

1 denied Plaintiff's Motion under Rule 59(e) and 60(b)(1) because Plaintiff did not provide
2 any reasons for failing to comply with the Court's deadline for amending Plaintiff's
3 complaint. Doc. 15 at 2. The Court noted that because Plaintiff's case was dismissed
4 without prejudice, he is free to file a new case. *Id.* at 3.

5 On March 31, Plaintiff filed notice of his appeal of the Court's denial of his Motion
6 for Reconsideration (Doc. 15), the Clerk's Judgment dismissing his case (Doc. 13), and the
7 Court's November 28 Order dismissing his case without prejudice and with leave to amend
8 his complaint within 30 days of the Court's Order (Doc. 10). A litigant previously permitted
9 to proceed IFP may maintain IFP status on appeal unless the district court certifies that the
10 appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed
11 IFP. *See* Fed. R. App. P. 24(a)(3)(A). On April 7, the Ninth Circuit referred this matter
12 back to the district court to determine whether in forma pauperis status should continue for
13 this appeal, or whether the appeal is frivolous or taken in bad faith. Doc. 18 (citing 28
14 U.S.C. § 1915(a)(3); *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002)).

15 Plaintiff's appeal is frivolous because the result is obvious. *McConnell v. Critchlow*,
16 661 F.2d 116, 118 (9th Cir. 1981). Plaintiff's case was dismissed without prejudice for
17 failing to comply with a Court Order. He was specifically advised that a failure to timely
18 comply with the Court's Order could result in dismissal. Plaintiff did not seek leave for an
19 extension and Plaintiff's motion for reconsideration failed to provide any reasons for not
20 complying with the Court's deadline. Plaintiff remains free to file a new case. The Court's
21 rulings are therefore not reasonably debatable, and Plaintiff's appeal is frivolous.

22 Accordingly,

23 **IT IS ORDERED REVOKING** Plaintiff's in forma pauperis status.

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Dated this 17th day of April, 2023.

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